

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO  
RECONSIDER MOTION FOR EXTENSION OF  
EXPERT WITNESS DEADLINE**

COMES NOW, Plaintiff Carolyn Millender, by and through undersigned counsel, and respectfully requests that this Honorable Court deny Defendants' Motion to Reconsider its denial of the Motion to extend Defendants' expert witness deadline, and as grounds in support shows as follows:

1. Defendants still have failed to state any reason for the need for the extension of their expert witness deadline request.
2. Defendants assert that Plaintiff would not be prejudiced by an extension of the deadline, but fails to give reasons for this assertions. Furthermore, Defendants argue that Plaintiff failed to state that she would be prejudiced in her previous

Opposition, but, in this statement, they fail to recognize that Plaintiff was opposing the requested extension.

3. Defendants still have failed to identify any reason for the need of using an expert witness in their request to extend the deadline. While Defendants give several statements of facts regarding Plaintiff's claims set out in her Complaint and Amended Complaint, Defendants have failed to provide the area and/or subject matter needed for the use of an expert, or the reasons needed for the requested extension. Defendants have been aware of the claims in Plaintiff's Complaint since January of 2007, and the claims in her Amended Complaint since June 2007. Defendants make one vague comment about issues concerning computer related matters, but the computers in issue are owned by Defendants and have been in its custody and control since the filing of this lawsuit.

4. Defendants have failed to met their burden for a motion to reconsider. Defendants filed two previous motions requesting an extension of the expert witness deadline before they filed their Motion to Reconsider. In any of these previous two motions, Defendant could have asserted the factual statements alleged in the Motion to Reconsider but it failed to do so. ““Motions to reconsider serve a limited function; to correct manifest errors of law or to present newly discovered evidence.”” *Rothwell Cotton Co. v. Rosenthal & Co.* 827 F.2d 246, 251 (7<sup>th</sup> Cir. 1987) (quoting *Keene Corp. v. Int'l Fidelity Ins. Co.*, 561 F. Supp. 656 (N.D. Ill. 1982) *aff'd*, 736 F.2d 388

(7<sup>th</sup> Cir. 1984). In their motion, Defendants have failed to point to any manifest error of law or fact, and they have failed to present any newly discovered evidence. Defendants just continue to make vague assertions requesting an extension and fail to provide any newly discovered reasons for the need for the extension.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully requests that this Honorable Court deny Defendants' motion to reconsider the denial of their request to extend the expert witness deadline.

Respectfully submitted,

/s/William F. Patty

**WILLIAM F. PATTY [PAT038]**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mary A. Goldthwaite  
Office of Attorney General  
11 South Union Street  
Montgomery, AL 36130

on this the 12th day of September, 2007.

/s/ Candis A. McGowan  
**OF COUNSEL**